

THE STATE INTELLECTUAL PROPERTY OFFICE OF CHINA

Address: Receiving Department of The PRC Patent Office
6 Xitucheng Road, Haidian, Beijing

Postal Code: 100088

Filing number of Patent Appln.	200480028720.3	Issuing Date:
Agent	Xianglan DING	November 14, 2008
Applicant	Pioneer Corporation	
Title of Invention	Organic electroluminescence device	

SECOND NOTIFICATION OF OFFICE ACTION

1. ☒ The examiner has received the Observations submitted by the applicant on September 1, 2008 in response to the First Office Action issued by the State Intellectual Property Office, and, on this basis, continued to conduct examination as to substance of the captioned patent application.
☐ On the basis of the Reexamination Decision made by the Reexamination Board of the State Intellectual Property Office on _____, the examiner continues to conduct examination as to substance of the captioned patent application.
2. ☐ The amended document submitted by the applicant on _____ is not in conformity with the provisions of Rule 51, para. 3 of the Implementing Regulations of the Chinese Patent law.
3. Further examination has been conducted against the following application document(s):
 - ☐ amended application document(s) attached to the said observations.
 - ☒ application document(s) at which the previous Office Action is directed, and the replacement sheet(s) of the amended application document(s) attached to the said Observations.
 - ☐ application document(s) at which the previous Office Action is directed.
 - ☐ application document(s) confirmed in the said Reexamination Decision.
4. ☐ In this Office Action no new reference documents have been cited.
☒ following new reference document(s) is/are cited in this Office Action. (Its/Their reference number(s) shall come after those previously cited and will continue to be used throughout the examination procedure):

Reference Number	Number or Title of Reference Material	Publication Date (or Filing Date of A Conflict Patent Application)
2	CN1405904A	March 26, 2003
3		
4		

5. The objections after the examination:

- ☐ In regard to the description:
 - ☐ The subject matter of the present application is not accepted under the Article 5 of the Chinese Patent Law.
 - ☐ The description is not in conformity with the provision of paragraph 3, Article 26 of Chinese Patent Law.
 - ☐ The description is not in conformity with the provision of Article 33 of Chinese Patent Law.
 - ☐ The presentation of the description is not in conformity with the provision of Rule 18 of the Implementing Regulations of the Chinese Patent Law.
- ☒ In regard to the Claims:
 - ☐ Claims _____ can not be allowed owing to lack of novelty under the provision of paragraph 2, Article 22 of Chinese Patent Law.
 - ☒ Claims 1,2 can not be allowed owing to lack of inventiveness under the provision of paragraph 3, Article 22 of Chinese Patent Law.
 - ☐ Claims _____ cannot be allowed owing to lack of practical applicability under the provision of paragraph 4,

Article 22 of Chinese Patent Law.

- ☐ Claims _____ can not be allowed because they fall in the scope of the unpatentable subject matters provided by Article 25 of the Chinese Patent Law.
- ☐ Claims _____ cannot be allowed because they are not in conformity with the provision of paragraph 4, Article 26 of Chinese Patent Law.
- ☒ Claims 5,6 cannot be allowed under the provision of paragraph 1, Article 31 of Chinese Patent Law.
- ☒ Claims 3,4 cannot be allowed under the provision of Article 33 of Chinese Patent Law.
- ☐ Claims _____ can not be allowed because they claim an invention(s) that does not belong to the inventions defined by the provision of paragraph 1, Rule 2 of the Implementing Regulations of the Chinese Patent Law.
- ☐ Claims _____ cannot be allowed under the provision of paragraph 1, Rule 13 of the Implementing Regulations of the Chinese Patent Law.
- ☐ Claims _____ can not be allowed under the provision of Rules 20 of the Implementing Regulations of the Chinese Patent Law.
- ☐ Claims _____ cannot be allowed under the provision of Rules 21 of the Implementing Regulations of the Chinese Patent Law.
- ☐ Claims _____ cannot be allowed under the provision of Rules 22 of the Implementing Regulations of the Chinese Patent Law.
- ☐ Claims _____ cannot be allowed under the provision of Rules 23 of the Implementing Regulations of the Chinese Patent Law.
- ☐ _____
- ☐ Divisional application is not in conformity with the provision of paragraph 1, rule 43 of the Implementing Regulations of the Chinese Patent Law.

The specific explanation of the objections is given in the attachment sheet

6. According to the above objections, the examiner holds that

- ☐ The applicant should amend the application documents based on the request in the Attachment Sheet.
- ☒ The applicant should state the reason why the application can be accepted and amend the part that is indicated not to be in conformity with the requirement, otherwise the application will be rejected.
- ☐ No subject matter in the application is patentable, said application will be rejected if the applicant does not make a statement or the presented statement is not convincing.
- ☐

7. The applicant's attention is drawn to the fact that

- (1) in accordance with the provision of Article 37 of the Chinese Patent Law, the applicant shall submit the observations within two months from the date of receiving this notification. If the applicant, without any justified reason, fails to reply within the time limit, the application shall be deemed to have been withdrawn.
- (2) the amendment that the applicant makes shall be in conformity with the provisions of Article 33 of the Chinese patent Law and Rule 51 of the Implementing Regulations thereof. The amended text shall be furnished in duplicate. The formality of the amendment should be in conformity with the relevant provisions of the Guideline for Examination.
- (3) any response and/or amended specification must be furnished, by mailed or by hand, to the Receiving Department of the Chinese Patent Office. Any documents that are not furnished to the Receiving Department do not have legal effect.
- (4) the applicant and/or his attorney should not go to the PRC Patent Office to meet the examiner if no appointment is made.

8. The text of the notification embraces 2 page(s), along with the enclosures herein:

- ☒ 1 copy of the cited references are enclosed in pages of 11.

- ☐ 权利要求_____ 不符合专利法实施细则第 20 条的规定。
☐ 权利要求_____ 不符合专利法实施细则第 21 条的规定。
☐ 权利要求_____ 不符合专利法实施细则第 22 条的规定。
☐ 权利要求_____ 不符合专利法实施细则第 23 条的规定。

☐

☐ 分案的申请不符合专利法实施细则第 43 条第 1 款的规定。

上述结论性意见的具体分析见本通知书的正文部分。

6. 基于上述结论性意见, 审查员认为:

☐ 申请人应按照通知书正文部分提出的要求, 对申请文件进行修改。

☒ 申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由, 并对通知书正文部分中指出的不符合规定之处进行修改, 否则将不能授予专利权。

☐ 专利申请中没有可以被授予专利权的实质性内容, 如果申请人没有陈述理由或者陈述理由不充分, 其申请将被驳回。

☐

7. 申请人应注意下述事项:

(1) 根据专利法第 37 条的规定, 申请人应在收到本通知书之日起的贰个月内陈述意见, 如果申请人无正当理由逾期不答复, 其申请将被视为撤回。

(2) 申请人对其申请的修改应符合专利法第 33 条和实施细则第 51 条的规定, 修改文本应一式两份, 其格式应符合审查指南的有关规定。

(3) 申请人的意见陈述书和/或修改文本应邮寄或递交国家知识产权局专利局受理处, 凡未邮寄或递交给受理处的文件不具备法律效力。

(4) 未经预约, 申请人和/或代理人不得前来国家知识产权局专利局与审查员举行会晤。

8. 本通知书正文部分共有 2 页, 并附有下列附件:

☒ 引用的对比文件的复印件共 1 份 11 页。

☐

第二次审查意见通知书正文

申请号：2004800287203

申请人于2008年9月1日针对第一次审查意见通知书提交了意见陈述书以及经过修改的权利要求书和说明书，审查员对该申请继续审查，具体审查意见如下：

（一）超范围问题

权利要求3，4的修改不符合专利法第33条的规定。权利要求3中记载了“第三层由4,4'-二[N-(萘基)-N-苯基-氨基]制成”，权利要求4中记载了第二层包含由化学式（3）所表示的BEM-B。这里的“第三层”在不同的组合情况下，可能是发光层或者空穴传输层，“第二层”在不同的组合情况下，可能为电子传输层或者发光层，也就是说，修改后的权利要求3包括了发光层由4,4'-二[N-(萘基)-N-苯基-氨基]制成和空穴传输层由4,4'-二[N-(萘基)-N-苯基-氨基]制成两种情况；修改后的权利要求4包括了电子传输层包含由化学式（3）所表示的BEM-B或者发光层包含由化学式（3）所表示的BEM-B两种情况。而在原说明书和权利要求书中仅记载了发光层的基质材料由4,4'-二[N-(萘基)-N-苯基-氨基]或者化学式（3）表示的BEM-B形成的情况。本领域技术人员不能从中直接的、毫无疑义的得到上述内容。可见，权利要求3，4的修改超出了原说明书和权利要求书的记载范围，不符合专利法第33条的规定。

（二）创造性问题

1. 权利要求1不符合专利法第22条第3款关于创造性的规定。对比文件1中公开了一种有机EL元件（与本申请属于同一技术领域），其中（参见说明书第0022—0024段，第0031—0036段、附图1）公开了以下技术特征：彼此相对的阳极层12和阴极层24（相当于权利要求1中的正极和负极）；在阳极层和阴极层之间形成有正孔输送层14、正孔流量抑制层16、发光层18、电子输送层20和电子注入层22（相当于权利要求1中的有机功能层）；其中，正孔流量抑制层16（相当于权利要求1中的第三层）的材料可以选择为a-NPD（玻璃化温度为96摄氏度）；发光层18（相当于权利要求1中的第二层）的材料可以为Alq3，正孔输送层20（相当于权利要求1中的第一层）的材料的玻璃化温度为130摄氏度以上。虽然对比文件1中没有明确记载，但是，玻璃化温度是材料本身的固有属性，发光材料的玻璃化温度通常都在110摄氏度以上，必然高于99—107摄氏度，因此，正孔流量抑制层16的玻璃化温度满足小于正孔输送层20和发光层18的玻璃化温度的条件（相当于权利要求1中的“第一层和第二层均由玻璃化转变

温度大于或等于第一温度的有机化合物制成，所述第三层由玻璃化转变温度低于所述第一温度的有机化合物制成”。可见，对比文件1公开了权利要求1的大部分技术特征。

权利要求1与对比文件1相比，其区别技术特征在于权利要求1中还记载了发光层包含磷光材料作为掺杂材料。可见，本申请实际解决了提高发光效率的技术问题。

该技术特征在对比文件2中（参见说明书第3页第13行—第4页第13行）已经公开（对比文件2中在发光层中掺杂了磷光材料），并且在对比文件2中该技术特征可以起到与其在本申请中为解决技术问题相同的作用。可见，对比文件2给出了将上述技术特征用于对比文件1的技术方案以解决其技术问题的启示，在对比文件1的基础上结合对比文件2，得到权利要求1要求保护的技术方案，对本领域技术人员来说是显而易见的，因此，权利要求1不具备突出的实质性特点和显著的进步，不具备创造性。

2. 权利要求2不符合专利法第22条第3款关于创造性的规定。权利要求2引用了权利要求1，其附加技术特征在对比文件1中（参见说明书第0022—0024段，第0031—0036段、附图1）已经公开（对比文件1中明确记载了正孔流量抑制层16的玻璃化温度为96摄氏度，正孔输送层20为130摄氏度，二者之间满足大于12摄氏度的关系，公开了权利要求2的附加技术特征“所述第三层的玻璃化转变温度与所述第一层或所述第二层的玻璃化转变温度之差大于或等于12摄氏度”）。因此，在权利要求1不具备创造性的基础上，权利要求2也不具备创造性。

（三）单一性问题

权利要求5、6之间不具备专利法第31条第1款所规定的单一性。权利要求5、6之间相互关联的技术特征是如权利要求1记载的有机电致发光装置，上述技术特征在现有技术中已经公开（参见对比文件1说明书第0022—0024段，第0031—0036段、附图1，以及本通知书关于权利要求1不具备创造性的相关评述），因此上述技术特征不是对现有技术作出贡献的技术特征，即不是特定技术特征，因此，权利要求5、6之间不具有相同或者相应的特定技术特征，不属于一个总的发明构思，不具备单一性。

基于上述理由，本申请按照目前的文本不能被授予专利权。申请人应在本通知书指定答复期限内按照本通知书提出的审查意见对申请文件进行修改，克服所存在的缺陷。对申请文件的修改应当符合专利法第33条的规定，不得超出原说明书和权利要求书记载的范围。请申请人附上修改参考页，并在意见陈述书中说明所做修改在原权利要求书和说明书中的依据、陈述修改没有超出原说明书和权利要求书记载

的范围、以及克服了通知书中所指出缺陷的理由。

审查员：李莹

代码：A230